

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

February 11, 2010

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Hawai'i

**Forfeiture of General Lease No. S-5334, Alfred A. Silva, Lessee, Kaauhuhu,
North Kohala, Hawaii, Tax Map Key: 3rd/5-5-01:45.**

PURPOSE:

Forfeiture of General Lease No. S-5334, Alfred A. Silva, Lessee.

LEGAL REFERENCE:

Section 171-39, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kaauhuhu Homesteads, Lot 15-B situated at Kaauhuhu, North Kohala, Hawaii, identified by Tax Map Key: 3rd/5-5-01:45, as shown on the attached map labeled Exhibit A.

AREA:

6.67 acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CHARACTER OF USE:

Pasture purposes.

TERM OF LEASE:

35 years, commencing on 10/01/1993 and expiring on 09/30/2028.

ANNUAL RENTAL:

\$400.00 due in semi-annual payments.

REMARKS:

Pursuant to the authority granted the Chairperson by the Board of Land and Natural Resources at its meeting of January 11, 1980 and the breach provision contained in General Lease S-5334, Alfred A. Silva, Lessee, was served a Notice of Default by certified mail dated **11/18/09** for:

- ☒ Failure to keep lease rental payments current
- ☐ Failure to post required performance bond
- ☐ Failure to post required fire insurance policy
- ☐ Failure to post required liability insurance policy
- ☐ Other: _____

Said notice, accepted by the Lessee on **11/23/09**, offered the Lessee a **thirty**-day cure period to correct the default. This cure period expired on **12/23/09**. As of **1/25/10**, this breach has not been cured.

As of **1/25/10**, the current status of all lease compliance items is as follows:

RENT: The Lessee has a rental delinquency of **\$200.00** for the time period from **10/01/09** to **03/31/10**. In addition, Lessee has late (service) fees in the amount of **\$200.00** for three months the rate of \$50.00 per month.

INSURANCE: The Lessee has posted the required liability insurance policy.

PERFORMANCE BOND:

The Lessee has posted the required performance bond. This bond is in the form of a cash deposit of \$800.00.

CONSERVATION PLAN:

The Lessee **has not** submitted a conservation plan and has shown no effort in working with NRCS to complete a conservation plan.

The Lessee has been served notice of defaults on four (4) previous occasions.

DATE	TYPE OF DEFAULT	RESULT
4/20/07	Rent	6/18/07 cured
10/29/07	Rent	Board submittal prepared for cancellation, but withdrawn after payment was made in December.
11/21/08	Rent	1/8/09 cured
6/3/09	Rent	9/8/09 cured

Staff has attempted to contact the Lessee, but has been unsuccessful in its efforts. Staff is therefore recommending the Board authorize the cancellation of General Lease No. S-5334.

RECOMMENDATION: That the Board:

1. Authorize the cancellation of General Lease No. S-5334 in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under General Lease No. S-5334 to be applied to any past due amounts;
3. Terminate the lease and all rights of Lessee and all obligations of the Lessor effective as of **February 11, 2010**, provided that any and all obligations of the Lessee which have accrued up to said effective date or which are stated in the lease to survive termination shall endure past such termination date until duly fulfilled, and further provided that Lessor reserves all other rights and claims allowed by law; and
4. Authorize the Department of the Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawaii under General Lease No. S-5334 and to pursue all other rights and remedies as appropriate.

Respectfully Submitted,



Gordon C. Heit
Land Agent



APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson





